



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF AUGUST 28, 2003**

CALL TO ORDER: Chairperson Cohen called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Cohen, Commissioners Weaver, Wieckowski, Harrison, Thomas, Sharma, Natarajan

ABSENT: None

STAFF PRESENT: Jeff Schwob, Interim Planning Director
Larissa Seto, Assistant Deputy City Attorney II
Cliff Nguyen, Planner II
Andrew Russell, Associate Civil Engineer
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Walter Garcia, Video Technician

APPROVAL OF MINUTES: Regular Minutes of July 24, 2003, approved as submitted.

CONSENT CALENDAR

Commissioner Natarajan and Commissioner Wieckowski asked that Item No. 4 be removed from the consent list. Two members of the public asked that Item No. 5 and Item No. 8 be removed from the consent list.

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 3, 7, 9 and 10.

IT WAS MOVED (WEAVER/HARRISON) AND UNANIMOUSLY CARRIED BY THE FOLLOWING VOTE (6-0-1-0-0) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 3 and 7.

Item 3. PACIFIC COMMONS - Auto Mall Parkway – (PLN2003-00298) - to consider Vesting Tentative Tract Map 7458 and a Preliminary Grading Plan to implement the Planned District Major Amendment, approved by City Council on July 22, 2003, modifying the approved land use and circulation plans for the Planned Development known as Pacific Commons (P-2000-214) in the Industrial Planning Area. An EIR and Supplemental EIR were previously approved for the Pacific Commons project. An addendum was prepared and adopted for the Planned District Major Amendment finding the project to be consistent with the original plan and EIRs. (Continued from July 24, 2003.)

CONTINUE TO SEPTEMBER 11, 2003.

Item 7. CATELLUS DEVELOPMENT CORP. – PACIFIC COMMONS DEVELOPMENT AGREEMENT REVIEW (PLN2003-00311) – to consider a City Manager's report on the annual review of the development agreement for property generally located westerly of Interstate 880 between Auto Mall Parkway and Cushing Parkway in the Industrial Planning Area. An EIR and Supplemental EIR were previously approved for the Pacific Commons project. The annual review is covered by Supplemental EIR 86-85, dated January 31, 2000 and April 14, 2000; none of the conditions of CEQA Guidelines Section 15162 requiring additional environmental documents exists.

HOLD PUBLIC HEARING;

AND

FIND THE ANNUAL REVIEW OF THE DEVELOPMENT AGREEMENT IS NOT A PROJECT AS DEFINED IN CEQA GUIDELINES SECTION 15168 AND THAT NO FURTHER ENVIRONMENTAL DOCUMENT IS NEEDED FOR THIS REVIEW;

AND

FIND AND DETERMINE ON THE BASIS OF SUBSTANTIAL EVIDENCE IN THE RECORD OF THE PROCEEDINGS, THAT FOR THE REVIEW PERIOD OF 2002-2003, THE DEVELOPER HAS COMPLIED WITH ITS OBLIGATIONS UNDER THE 2000 AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FREMONT AND CATELLUS DEVELOPMENT CORPORATION FOR THE PACIFIC COMMONS PROJECT.

The motion carried by the following vote:

AYES:	6 –Cohen, Harrison, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	1 – Natarajan
ABSENT:	0
RECUSE:	0

IT WAS MOVED (THOMAS/WEAVER) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 9 and 10.

Item 9. **A PERFECT DAY – 39039 Paseo Padre Parkway - (PLN2003-00316)** - to consider a Conditional Use Permit for a massage therapy and training establishment in the Central Planning Area. This project is categorically exempt from CEQA per section 15301, Existing Facilities.

MODIFICATION TO STAFF REPORT

Under Massage Establishment Ordinance Requirements, line 2
The City Licensing Authority has received and approved the application for A Perfect Day, LLC.

Under Massage Establishment Ordinance Requirements, line 4
The application has been received and approved by the City Licensing Authority.

HOLD PUBLIC HEARING;

AND

FIND PLN2003-00316 IS EXEMPT FROM CEQA PER SECTION 15301;

AND

FIND PLN2003-00316 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL GOALS AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2003-00316, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B" & EXHIBIT "C".

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

- Item 10. AUTOMOTIVE DEALERSHIPS – Citywide – (PLN2003-00202)** – to consider a Zoning Text Amendment for the inclusion of performance standards for automotive dealerships in areas outside of the Fremont Auto Mall. This project is exempt under the general rule in Section 15061(b)(3) of the CEQA Guidelines.

CONTINUE TO SEPTEMBER 11, 2003.

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 1. HARSHAD PATEL – 45670 Montclair Terrace – (PLN2001-00100)** – to consider a Planned District Minor Amendment for site plan and architectural approval for a new 6,492-square foot single-family dwelling located in the Mission San Jose Planning Area. This project is categorically exempt from environmental review per CEQA section 15303, New Construction. (Continued from July 24, 2003)

Jim Gibbon, architect, reminded the Commission that this project was originally brought before the Commission in 2001 when there were no other homes next to the property. At the present time, this lot was the last to be built on. The project had been completely redesigned. He displayed the site plan and pointed out that the original prairie style home had been changed to be similar to the others, which were Mediterranean or some version of Italian style. The two-story garage with recreation room above was changed to one story and the home no longer violated the property line. A retaining wall was built along the property line. He agreed to all of the suggested conditions.

Commissioner Natarajan asked why the building was sited against the contours of the land.

Mr. Gibbon replied that the house was sited to accommodate the easement that was 30 feet from vegetation, which restricted building the house towards the creek. The garages had to be placed above the 18 percent grade with the house moving down the hill behind them. Otherwise, the garages would have been much taller.

Commissioner Harrison noted that the applicant had mentioned the retaining wall, which was one of the conditions, and asked if he was comfortable with the other conditions.

Mr. Gibbon replied that he was.

Chairperson Cohen opened and closed the public hearing.

Commissioner Natarajan asked staff what kind of architectural details were expected and had the applicant been given specific direction regarding those expectations. She noted that Condition A6 and D3 were contradictory and suggested that D3 be deleted.

Planner Nguyen answered that the details included the foam trim, window surround and front entry detailing. The front entry trim was not in scale with the rest of the residence. He expected to be able to resolve these details with the applicant during the D.O. process.

Commissioner Thomas expressed disappointment with the change of building style. The prairie style would have been different from everything else that was already there. The building did not step down the hill as much as possible and was too boxy. However, if the applicant was willing to work with staff on the conditions and details, she would support the project.

Chairperson Cohen opined that the City did not have the will to disallow these houses that were too big for their lots, and this one was no exception. Time would tell how much of a mistake had been made. Nevertheless, it would be unfair to not allow this house to be built.

IT WAS MOVED (THOMAS/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (6-1-0-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

APPROVE PLN2001-00100, AS SHOWN ON EXHIBIT "A" AND "C", SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "B", AND DELETING CONDION D-3.

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver
NOES:	1 – Wieckowski
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Item 2. HUB VALERO – 4004 Mowry Avenue – (PLN2002–00192) – to consider a Finding for site plan and architectural approval for a gasoline service station with a convenience store and car wash to replace an existing gasoline service station and car wash for property located in the Central Planning Area. A Mitigated Negative Declaration has been prepared for this project. (Continued from June 12, 2003)

Chris Guterres, RHL Design Group representing the owner, stated that changes had been made, per the Commission's recommendation, i.e., colors were eliminated, the yellow band was changed, vertical colors were added, fuel canopy column was beefed up, uplighting on the walls was added and a base was added to the public art.

Commissioner Sharma asked which color option his client preferred.

Mr. Guterres replied that he and his client preferred Option C.

Commissioner Wieckowski asked how high the canopy was.

Mr. Guterres estimated that the top of the arch was at 22 feet with the lowest portion at 14 feet.

Chairperson Cohen clarified, while reading from the report, that the canopy was 22 feet high and 14 feet, 6 inches. He asked what the minimum clearance had to be.

Mr. Guterres stated that the minimum clearance had to be 13 feet, 6 inches.

Chairperson Cohen asked staff to summarize its concerns and to indicate what kind of direction it needed from the Commission.

Interim Director Schwob replied that the building changes were more horizontal rather than the requested vertical, because the vertical elements seemed awkward. The entry element was lowered so that it was below the canopy. Direction was needed concerning the material for the column, either stucco-type or metal material. Other metal elements would be the canopies, the entry arch truss and the medallions that would ring the building and were actually light features. The Commission's color preference was not clear. The applicant preferred the grayer tones, which were simpler than the other options.

Commissioner Sharma asked for a comparison of the ease of maintenance between the stucco and the metal.

Interim Director Schwob stated that the metal panels would probably get "dinged", but the stucco would chip but would be easier to repair.

Commissioner Natarajan asked if the metal trellises that were recommended for the east and north elevations would be of exposed metal.

Interim Director Schwob stated that she was correct.

Commissioner Wieckowski asked the height of the canopy, as it seemed too high to be pedestrian friendly.

Chairperson Cohen noted that the canopy was angled and streamlined.

Interim Director Schwob estimated that this canopy would have about the same clearance as the one at Auto Mall Parkway and Grimmer Boulevard. He stated that the canopy had to be a minimum of 14 feet, 6 inches for fire truck clearance.

Commissioner Harrison asked if the applicant preferred the Exhibit C colors or was he totally against Exhibit D.

Mr. Guterres introduced his client, the owner.

Ray Olyaie, owner, stated that it did not matter to him; he would be happy with whatever made the Commission happy.

Commissioner Natarajan asked if the canopy color had to be teal or could it be changed.

Mr. Olyaie replied that the canopy could be any color the Commissioners wished.

Mr. Guterres offered to make the metal heavier on the canopy column to make the columns harder to ding.

Commissioner Sharma asked if he was saying the heavier metal would not require much maintenance. He wondered if a material that was more difficult to maintain would, in fact, be maintained.

Mr. Guterres replied that a heavier gauge metal would be harder to damage by pedestrians.

Chairperson Cohen closed the public hearing and stated that he believed the owner was conscientious and would provide maintenance no matter what the material was.

Commissioner Thomas preferred Exhibit C, which was blue and gray, with the metal. However, she would be amenable to the other option, if the rest of the Commission preferred it. From a marketing standpoint, the brighter colors might be preferable. She liked the sculpture and felt it was appropriate, especially, if the teal and silver colors were used.

Commissioner Harrison agreed with Commissioner Thomas concerning Exhibit C. He commended the applicant for being willing to work with the Commission and staff to improve one of the main corners in the City.

Commissioner Wieckowski liked the pedestrian invitation onto the site. He also liked the heavier gauge metal and both colors options were acceptable; however, he preferred Exhibit D. He also liked the lights on the main building and the lighted fountain, which should add to the attraction of the corner. He also liked the heavier gauge metal.

Vice Chairperson Weaver preferred Exhibit D, but Exhibit C was also satisfactory. She liked the metal and felt it would be more appropriate with the blue and gray in Exhibit C. She would like to see more metal elements on other portions of the building.

Chairperson Cohen also liked Exhibit C and agreed that more metal elements would make it that much more attractive. However, he believed that the design did not go far enough and could have been more modern with a diner-type approach. This design was not bad, but he would have preferred something that was "better than not bad."

Commissioner Natarajan asked if the building should stand-alone or if it should be a part of the shopping center. In her opinion, the design was not significant enough to stand alone, therefore, it should probably have colors similar to The Hub. She also liked the metal and suggested that it could stand out if Exhibit D was modified. She suggested that the three horizontal colors be brought down to two or even one color with the metal used as an accent, along with metal trellises.

Commissioner Sharma noted that the use could not be changed on this corner, and he believed that the heavier metal would be appropriate for Exhibit C.

Vice Chairperson Weaver proposed the following motion.

Commissioner Wieckowski asked if any other kind of metal element could be added to make the building have a stronger diner look.

Chairperson Cohen stated that he would not support Exhibit D, because the colors were a little crass. He still wanted to make the building design better.

Commissioner Harrison stated that he agreed with Chairperson Cohen and would vote against Exhibit D with the hope that the Commission would agree on Exhibit C.

IT WAS MOVED (WEAVER/NATARAJAN) AND FAILED BY THE FOLLOWING VOTE (4-3-0-0-0) THAT THE PLANNING COMMISSION APPROVE EXHIBIT D, BUT REPLACE SAFARI TAN WITH FORTRESS STONE, KEEP THE MONTE CARLO, TAUPEWOOD AND VALERO TEAL WITH HIGHER GAUGE METAL COLUMNS AND ADDITIONAL METAL ELEMENTS ON OTHER ELEATIONS TO BE LEFT METAL COLORED.

The motion failed by the following vote:

AYES:	3 – Natarajan, Weaver, Wieckowski
NOES:	4 – Cohen, Harrison, Thomas, Sharma
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Chairperson Cohen commented that the City was accumulating public artwork and the formation of a tour of the City's artwork would be appropriate.

IT WAS MOVED (HARRISON/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (6-1-0-0-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

APPROVE STAFF RECOMMENDATION WITH EXHIBIT C AS THE COLOR PALETTE, USING HEAVY GAUGE METAL WHERE APPROPRIATE AND ENCOURAGE OTHER METAL ELEMENTS BE USED ELSEWHERE;

AND

FIND THE INITIAL STUDY CONDUCTED FOR PLN 2002-00192 HAS EVALUATED THE POTENTIAL IMPACTS FOR THIS PROJECT THAT COULD CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES AND FIND THAT THERE IS NO EVIDENCE THAT THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECTS ON WILDLIFE RESOURCES;

AND

ADOPT DRAFT MITIGATED NEGATIVE DECLARATION PLN 2002-00192, FIND THAT IT REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT, AND FIND THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT;

AND

APPROVE MITIGATION MONITORING PLAN FOR THE HUB VALERO;

AND

FIND PLN2002-00192 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER;

AND

APPROVE PLN2002-00192, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B" AND COLOR RENDERINGS BOARD ON EXHIBIT "C";

The motion carried by the following vote:

AYES:	6 – Cohen, Harrison, Sharma, Thomas, Weaver, Wieckowski
NOES:	1 – Natarajan
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Chairperson Cohen called for a recess at 8:05 p.m.

Chairperson Cohen brought the meeting back to order at 8:15 p.m.

Item 4. WASHINGTON WEST RETAIL PHASE 3 – 2500 Mowry Avenue – (PLN2003-00265) – to consider a Finding for site plan and architectural approval for a 7,800-square foot retail/restaurant building at the corner of Paseo Padre Parkway and Capitol Driveway. This project is categorically exempt from CEQA per section 15332, Infill Development Projects.

Interim Director Schwob announced that he had passed out an updated site plan to the Commissioners.

Commissioner Harrison disclosed that he had spoken with the applicant previous to this meeting.

Chairperson Cohen asked Commissioner Natarajan to explain why she had asked that this item be removed from the Consent Calendar.

Commissioner Natarajan replied that she had concerns with the site plan. It made no sense to locate the back of the buildings facing the driveway and aligned with Capitol Avenue. The outdoor seating would be facing the parking lot and the trash cans would be

facing Capitol Avenue, which defeated the purpose of the earlier site plan. It was expected that Capitol Avenue would, eventually, have retail shops and would become the City's main street. It seemed that "trash over people" had become important.

Commissioner Wieckowski voiced the same concerns. The CBD was designed for businesses to be oriented toward Capitol Avenue.

Taylor Bell, representing Washington Hospital, stated that these same concerns had been raised before during two other hearings, and this site plan had already been approved by the Commission in 2001. The space that Max's Diner had planned to utilize had been divided into three spaces with Peet's Coffee locating on the corner. The originally approved Max's Diner had the outdoor seating facing the parking lot and Phase 2, as was still shown on the current site plan. In his opinion, no restaurant patron would be willing to park in the parking lot located in the middle of the retail and walk around the building to enter the front door of the restaurant. He agreed that the dumpsters had been relocated from Paseo Padre Parkway to the Capitol Avenue extension, which would always be a private driveway and would be shared with the Hospital. He introduced Galen Grant, architect.

Galen Grant, architect, displayed the site map showing various locations of the current retail businesses and noted that all of them fronted the parking lot, which was also planned for the three potential restaurants that would be located in the Phase 3 building. The hardscape areas in front and on both ends of the building would allow outdoor dining. Conditions included changing a curb, adding hardscape at the handicap curb cut, adding a trellis at the backside of the building, and incorporating some of the Phase 2 modifications into the Phase 3 building. The tower, eyebrow canopies and trellises were included, along with the outdoor dining space. Although the Capitol Driveway façade was the rear of the building, one would not realize it or notice the trash area.

Commissioner Wieckowski asked how the CBD design could be reconciled with the orientation of this building, which was not toward Capitol Avenue and had no access from it. It seemed that the CBD Plan had been ignored. He believed people would be willing to park in the parking lot and walk around the building to enter the restaurants. He asked why entry doors could not be located both on the parking lot side and on the Capitol Avenue side.

Mr. Grant agreed that an entrance door on Capitol Avenue would be practical for Peet's, which would be on the end. However, the tenant in the middle of the building would go out of business, without a doubt. No small tenant would accept doors on the front and back of the building. Two doors caused a security problem for the store employees, which management always tried to avoid. People wanted to park as close as possible to the front door.

Commissioner Wieckowski disagreed and he wondered what kind of crime Peet's Coffee customers would commit if there was a door available on Capitol Avenue. It was hoped that BART customers would want to walk to this retail development, but the back side of Phase 3 building would be facing them.

Mr. Bell reminded him that the space may not always be occupied by Peet's and that the Capitol Driveway was private with no parking allowed and was not part of Capitol Avenue. All restaurants needed a "back" for the food preparation area. The back had to front the parking lot or Capitol Avenue. This issue had been debated probably 30 times over the past three years. A decision had been made by staff, the Commission and the Hospital to orient the development towards the parking lot, which would match the rest of the development.

Commissioner Sharma asked if the back could be moved toward Paseo Padre Parkway. a shift of 90 degrees, with outdoor dining at Peet's on Capitol Avenue. The building would still be facing the parking lot, but just the end of it, which would be occupied by Peet's, would be on Capitol Avenue.

Mr. Bell noted that the back would be on a street where other buildings were located and where pedestrians currently were using the street, as opposed to backing the building up to the driveway.

Mr. Grant stated that the potential tenants would be dependent upon a view corridor from Paseo Padre Parkway, which would work as currently planned.

Commissioner Sharma countered by saying that there was no view corridor when traveling north on Paseo Padre Parkway and there was no entrance into the development from Paseo Padre Parkway. By moving the building down, all the businesses would be visible when traveling the other way on Paseo Padre Parkway. The main goal was to protect Capitol Avenue and its continuation to Washington Hospital for pedestrians coming from BART.

Mr. Bell replied that when looking at the development from the public art on the corner, all of the businesses would be visible to the expected pedestrian traffic. He noted that he had been required to take down a fence to accommodate that pedestrian traffic. If the Phase 3 building were moved, the tenants in Phase 2 would not be visible. He believed that Phase 2 would not be sold if it was covered by Phase 3. He also noted that, if this plan "was not pulled together soon, we will probably lose Peet's."

Mr. Grant agreed. He stated that the Paseo Padre Parkway end of the building was designed to look like a front with a "wealth of glass; it has outdoor seating; it has landscaping."

Commissioner Sharma asked if there would be an entrance at that corner.

Mr. Grant replied that there was an opportunity to have an entry, although one had not been planned, yet.

Commissioner Sharma suggested that making that decision now would be appropriate. At least one entrance would be available to a pedestrian.

Mr. Grant believed that an entrance on that corner would make no difference, as he expected that most of Peet's customers would arrive by automobile, rather than walking.

Commissioner Harrison asked if Capitol Avenue was going to be extended. Mr. Bell had mentioned that it was a "driveway" and could not be extended.

Interim Director Schwob stated that it would not be extended as a public street, but the businesses should be oriented towards it, because it would become a connecting element between the properties that adjoined it.

Commissioner Harrison recalled that his first vote on the Commission was for Max's Diner, and he remembered that it was oriented towards the parking lot, with the argument that the Capitol Driveway would probably never be extended as a public street. He did not see this plan as precluding people from coming downtown. This was just the starting point.

Commissioner Natarajan asked which space Peet's would occupy and who might occupy the other two spaces. She asked if one restaurant could occupy the area designated as Spaces 1 and 2.

Mr. Bell replied that restaurants would occupy all the spaces, with Peet's occupying the end cap. Pasta Pomodoro was planned for Space Number 1 and the restaurant for Space Number 2 had not been identified.

Commissioner Natarajan recalled that Max's was to have two entrances with a lot of transparency on the Capitol Avenue side, which had not read like a back wall. It had a sense of visual connection and that was not happening with this plan.

Mr. Bell passed current site plans and former plans for Max's restaurant to the Commissioners. He stated that there had been a small service entrance on Capitol Avenue, but no entrance, per se, on that side.

More discussion ensued about trash enclosure location and how it would be screened if it was left on Capitol Avenue; larger windows and visual connection for pedestrians; how the "back of the building" was needed for food preparation and what kind of restaurants actually needed such a preparation area; how delivery trucks would access the building service areas that would be located on Capitol Avenue; available outdoor dining space and where to locate it; whether pulling the Peet's Coffee space towards the parking lot would avoid the "row of restaurants" look seen elsewhere in the City and allow seating on Capitol Avenue; and if other vertical elements would add interest to the back of the building on Capitol Avenue.

Chairperson Cohen recalled why the site plan was proposed, as shown, and the bottom line was that this development was suburban-like and would work the best. He asked if there were any concluding comments that the applicant wished to make.

Mr. Grant stated that he had no more comments.

Chairperson Cohen closed the public hearing.

Commissioner Harrison offered a motion that included a condition that the applicant work with staff regarding the architectural concerns on the back of the building that were raised by other Commissioners, considering an architectural element at the opposite end of the building from the tower, and seating ideas.

Commissioner Natarajan noted that the color scheme provided in the packets seemed different from what had been presented, so she asked that the colors be addressed by staff and the applicant. She noted that the Walgreen's store had been painted a color different than had been approved.

Interim Director Schwob stated that it had less accent color than the other phases. Phase 2 had more accent colors and Phase 3 would incorporate the colors seen in both phases. He asked for direction concerning the colors.

Commissioner Natarajan replied that a deepness in tones would be preferred.

Commissioner Thomas suggested increasing the transparency areas, more plantings and trellises on the Capital Avenue side, and no straight wall across the back of the building.

Chairperson Cohen recalled another Peet's location with entrances on both sides of the space and expressed the hope that they might embrace some of the Commission's suggestions.

Chairperson Cohen noted that the work of art on the corner was the best piece in the City. The extra expenditure was worth it, as it spoke volumes to the good faith of the hospital. He appreciated that it had been volunteered by the hospital rather than required by the City.

IT WAS MOVED (HARRISON/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0-0) THAT THE PLANNING COMMISSION **HOLD PUBLIC HEARING**;

AND

FIND PLN 2003-00265, AS PER EXHIBIT "A" (SITE PLAN, ELEVATIONS) IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT CONFORMS TO THE GOALS AND OBJECTIVES OF THE CENTRAL BUSINESS DISTRICT;

AND

APPROVE PLN 2003-00265, AS SHOWN ON EXHIBIT "A" (SITE PLAN, ELEVATIONS), SUBJECT TO FINDINGS AND CONDITIONS INCLUDED IN EXHIBIT "B".

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Chairperson Cohen called for a recess at 9:30 p.m.

Chairperson Cohen called the meeting back to order at 9:40 p.m.

- Item 5. OCOTILLO SLIDE REPAIR – 47000 Ocotillo Court – (PLN2003-00302)** - to consider a Preliminary Grading Plan to repair a landslide on a property and to restore to original grade. This project is categorically exempt from CEQA per section 15269.

MODIFICATION TO STAFF REPORT

Modification to Grading/Topography: The last sentence in the third paragraph is being removed and shown as strikeout and the new language is in bold format and underlined.

A report entitled "Park Property, Ocotillo Court & Joshua Place, Fremont, Landslide Repair, Investigation & Recommendations," dated June 7, 2003, was prepared by the project geotechnical engineer, Lawrence B. Karp. The City's geotechnical peer review consultant was asked to review both the geotechnical report and the grading plans. ~~The City's consultant has approved the report and repair plan, subject to the following recommended conditions: The geotechnical peer review is ongoing, but is anticipated to be completed shortly after the Planning Commission public hearing. A condition of approval has been included which requires the project conform to the recommendations and conditions of the final geotechnical peer review report, subject to review and approval of the City Engineer prior to issuance of the grading permit.~~

INSERT PACIFIC GEOTECH'S CONDITIONS

~~The peer review consultant's recommended conditions are included within the Preliminary Grading Plan conditions of approval.~~

Modification to Condition 22: Last sentence of the condition is being deleted and the changes are shown as a strikeout.

- 22. After completion of grading, the fill slope shall be planted with deep-rooted native plants to minimize erosion, as required in the Lawrence B. Karp, geotechnical report. ~~The applicant shall submit a landscape plan,~~*

~~subject to review and approval of the City Engineer and the City Landscape Architect, prior to issuance of the grading permit.~~

A new condition is added number 26 and underlined.

26. The project plans shall conform to the recommendations and conditions of the final geotechnical peer review report, subject to review and approval of the City Engineer prior to grading permit issuance.

Modification to Exhibit "B", Finding #5: Last sentence is being deleted and the changes are shown as a strikeout.

Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. ~~The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.~~

Interim Director Schwob noted the modifications that appeared in the staff report.

Chairperson Cohen asked the person who removed this item from consent to address the Commission with his concerns.

Wilkie Laui, owner of the property on which the repair work was to be performed, expressed relief that the courts had finally rendered a decision and that the repair work was actually going to be done after approximately five years. He asked when the final plans would be available for review; if there would be a landscape plan prior to the work being done (since it had been struck out in the modification to the staff report); if the rough contour of the land would be reestablished before the actual repair was made (as it was not mentioned in the report); and what would happen if the work extended past the expected two months and ran into the rainy season.

Associate Civil Engineer Russell stated that a preliminary grading application and review by the Planning Commission was required when over 1,000 cubic yards were involved. The public was welcome to look at the project plans and make comments within a certain length of time. The slope must be reseeded to stabilize the slope along with restoring grades at the Laui residence, but staff was never made aware of the landscaping requirement from the courts. Additional landscaping and irrigation was never a part of the proposal. It was intended that the work would begin and be completed before the rainy season. However, the work could continue past that time, as long as protective measures were used to prevent erosion and to prevent sediment from leaving the site. He stated that he would be the best person to contact regarding the status.

Assistant City Attorney Seto stated that the City was not involved with the lawsuit that the speaker mentioned, so the City had never been served a copy of the final order. The City was using a geotechnical report prepared by the applicant's expert.

Richard Frank stated that a part of the settlement of the 1996 lawsuit required that the drain blocks at the house next to him were to be connected and discharged once a month. The water discharge came from 47000 Occotillo Court. There was a major spring that discharged onto the street, contrary to what was stated in the report. It was supposed to be repaired, as part of the settlement, but had not been done. He stated that this problem had originally

been noted on the plans and was known by the City. However, at the present time, he had not seen in on any plans as a part of the "fix." In his opinion. the City needed to clean the "mess up every three months."

Assistant City Attorney Seto stated that the City was not a party to the 1996 lawsuit, either, so it was not privy to that information.

Chairperson Cohen asked Mr. Frank if he was the applicant in this project.

Mr. Frank confirmed that he was not. He stated that every year the same problem occurred and both the City and the current owner were aware of it. He wanted to see noted somewhere that there was some "running water that's currently being uncontrolled on that property." He stated that this condition had been noted in a 1939 published report, so it was not a new situation.

Frank Kennedy, applicant's civil engineer who was hired by Maria Park's attorney, stated that the latest soils report (September, 2001) stated that the groundwater was about eight feet below the surface, but nothing was mentioned about a surface manifestation of a seep. Depending where it was, it may be addressed with the subdrain system that would be installed and would be a part of a complex of rock and pipe that would carry water to an approved discharge point. He promised to consult with others concerning the groundwater seep.

Chairperson Cohen closed the public hearing.

IT WAS MOVED (WEAVER/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0-0) THAT THE PLANNING COMMISSION

HOLD PUBLIC HEARING;

AND

FIND PLN2003-00302 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2003-00302, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Item 6. DEVRY STUDENT DORM – Ardentech Court - (PLN2003-00309) - to consider a Planned District Major Amendment for a new 83,996-square foot student dormitory located at Ardentech Court (adjacent to DeVry College Campus at 6600 Dumbarton Circle) in the Northern Plain Planning Area. A Mitigated Negative Declaration has been prepared for this project.

Steve Cienfuegos, Project Manager with Capstone Development, stated that this three-story residence hall would accommodate 300 students on the campus.

Candy Simons, Dean with DeVry University, gave an overview of the university system and stated that this campus was the only one in Northern California. It had approximately 2,000

students who could earn a Bachelors Degree in three years or less while attending year round. The college's placement was in excess of 93 percent.

Commissioner Natarajan asked if this was the first campus in the system that would provide student housing.

Ms. Simons stated that it was.

Mr. Cienfuegos added that this project would be the model for the other 25 campuses that made up DeVry College, as well as being a model for other similar schools, such as Phoenix University. Historically, the success of the City was directly related to where students resided, because those students stayed to become a part of and contributors to the City. He noted that DeVry students were a different cut from other university students in that there were no sports teams and the curriculum was accelerated. He complimented staff on the time spent on the building design, which was oriented to the success of the student.

Commissioner Harrison asked what the cost to the students would be to live in the dormitory.

Mr. Cienfuegos stated that it would be \$450 per month, per bed. Student housing was not profitable and was provided as an accommodation to the students. He stated that his company was currently working in Berkeley to provide more student housing, as many students were sleeping in their cars. At this time, the budget was "maxed out" due to the planning process. He stated that he would like to address two of the conditions later.

Commissioner Natarajan asked how the building program had been developed and if the students had any input. The building needed to be of good design, was fun and enriched learning. She asked if the students using the dormitory worked.

Mr. Cienfuegos replied his company was brought onboard to help with the building program, because it was the largest student housing developer in the nation. The faculty and the students were surveyed before the building was designed. The students needed light in their rooms and to be relatively close to the kitchen. A gym would be provided along with a game room. Gathering areas and private studying areas would also be included.

Ms. Simons stated that at least half of the students worked full time and more than 50 percent of the students surveyed expected to stay in the dormitory the entire time they were there, which was not traditional on other college campuses.

Commissioner Natarajan asked if it was assumed that every student would have a car and would need a parking space.

Ms. Simons did not expect the need for parking to change, unless it became less.

Mr. Cienfuegos stated that the dormitory would be approximately 300 feet from the classrooms and more than adequate parking was available at this time. Motorcycle parking and additional bicycle parking would be made available.

Commissioner Sharma stated that if students didn't have cars, they would probably have bicycles and more locations for bicycles would probably be needed. He suggested that outside social areas should be available along with an outside jogging/walking area with structures that accommodated stretching, etc.

Mr. Cienfuegos stated that bicycle storage would be available. However, many students' bicycles were expensive and would be kept in the dormitories, so storage probably would not be applicable. He expected that the current level of foot traffic would prevail. The quad area

included a patio that was a passive area. Moveable barbecues would be available for different areas. He again noted that students were different at this university than were at other universities and, down the road, there may be a wish for such an outdoor activity area as he had described.

Commissioner Sharma wondered how using other Bay Area campuses as examples of what worked for student dormitories, then not including those amenities in this plan could be reconciled when he claimed the school wanted to build a model for other similar small colleges.

Vice Chairperson Weaver asked the size of the rooms and if they were all the same. Were elevators available? What was the average age of the students. Were the rooms furnished? Was there provision for married students? Would married students be allowed to share a room? Were meals included in the \$450 per month rent or were they bought separately?

Mr. Cienfuegos replied that there were two standard rooms, along with handicapped rooms. The meal program was separate.

Dennis Kobes, architect, said that the one-bed units were approximately 300 square feet and the two-bed rooms were approximately 400 square feet, all with private baths and furnished. Some of each was handicapped accessible. There were two elevators.

Ms. Simon stated that half of the students were 21 to 60 with the other half right out of high school. Certainly, married students could share a room.

Commissioner Thomas asked if a live-in supervisor would occupy the apartment on the first floor and if some kind leadership would be available on the other floors with 100 students on each floor. What was the breakdown of male and female students on this campus?

Mr. Cienfuegos responded that a full-time resident manager would be on site. The floors would have RAs on each floor, who would be part of the mentoring program.

Ms. Simon said that, overall, there was 75 percent male and 25 percent female, which varied by program.

Commissioner Natarajan asked how the decision was reached concerning the location and orientation of the building. Why was the dormitory building not located closer to the classrooms and/or why was there not a strong pedestrian link between the two buildings?

Mr. Cienfuegos replied that the building was turned to provide more approach to Arden Court, which worked better for sound constraints from the train. The triangle spaces on either side of the building would be landscaped. The walkway would generally be enhanced by landscaping, as required by handicap and safety regulations. However, most of the students walked back and forth through that area as a group and were not expected to use the walkway.

Commissioner Natarajan asked if walking through the parking lot was the most appropriate path for the students to take. She wondered if the path was enhanced, would the students use it rather than the parking lot?

Ms. Simon stated the students currently walked as a group through the parking lot to their vehicles. When the dormitory was built, they would probably walk the same way, but to their rooms on the other side of the parking lot. She did not believe any improved path would discourage the students from walking across the parking lot.

Commissioner Natarajan asked what building materials were initially proposed and what kind of enhanced building materials were to be used.

Mr. Cienfuegos believed that any walkway would not be used. He asked what value would it be to the college by tearing out some of the parking lot and creating another walkway (at additional cost). The students would walk where they wished. The roof had changed in design and went from a fiberglass shingle to a concrete roof. An EIFS (Exterior Insulation and Finish Systems) design was decided upon rather than stucco, which would give more energy savings.

Commissioner Wieckowski asked what green materials would be introduced into the building. He asked if passive solar design had been considered.

Mr. Cienfuegos replied that EIFS was one aspect, along with dual glazing, reusing the crushed asphalt and recycling what was not used, and orientation towards the sun. A grid was not considered cost effective for this location, although it had been used elsewhere in the system.

Chairperson Cohen observed that the college was training budding engineers who might be interested in creating low-cost energy efficiencies.

Commissioner Wieckowski asked for a comment regarding the unavailability of the dormitory for the use by the general public.

Mr. Cienfuegos agreed that the dormitory would not be available to outside students or non-students, as with most other universities around the nation. Too risky. However, in the future, if the dormitory rooms outnumbered the students, they may want to open up the rooms to other students from other schools.

Commissioner Thomas wondered if, in the future, the facilities might be opened to adults wishing to take a weeklong course, for example.

Ms. Simons stated that they do something like that already with high school students. Absolutely, they might consider it during the five or six weeks throughout the year that the school was not in session.

Chairperson Cohen asked which conditions had caused concern.

Mr. Cienfuegos replied that one was the hard surface enhancement. They would prefer to keep it as planned. The other was the bike racks and barbecue facilities, which had already been discussed.

Chairperson Cohen expressed serious concerns about the architecture, which left a lot to be desired.

Mr. Cienfuegos replied that the architecture was designed to provide a relaxing area for the students with a residential look and would enhance their learning capacity. Most of the City's recommendations had been followed.

Chairperson Cohen opened the public hearing.

Mr. Cienfuegos closed by asking for approval, as the university hoped to have the dormitory available by next year. Much money had already been spent and they wished to move forward as soon as possible.

Chairperson Cohen closed the public hearing.

Commissioner Harrison asked if there were provisions for private dormitories like this that could be counted towards the City's low income housing requirements.

Interim Director Schwob replied that the answer was no. Each unit must have a kitchenette to count towards the City's housing needs.

Commissioner Natarajan questioned that 96,000 square feet would be landscaped and asked how that figure was reached. If the hardscape and building were excluded, it seemed as though it should be less.

Associate Civil Engineer Russell replied that a 45-foot landscape easement was along the southern edge, which may have been missed in her calculations.

Interim Director Schwob stated that 42.5% percent of the site would be landscaped.

Planner Nguyen stated that a site area shown on the map was composed of 226,000 square feet.

Commissioner Natarajan asked why EIFS was required rather than stucco or a GFRC. She asked if staff was satisfied with the contemporary look of this building. EIFS did not hold up well, especially on ground floors. She asked what was expected by staff when the condition was made for green building design. She asked about day lighting and use of recycled materials inside the building.

Planner Nguyen stated that it was hard to apply stucco in a smooth pattern, whereas, EIFS was easier to provide a smooth finish. Originally, staff had required a building that was architecturally similar to the main campus building and had a standing seam metal roof. That was not feasible, given the applicant's budget. Staff was told by the manufacture that, if EIFS was correctly applied to a building, it would hold up. Staff had encouraged that low E rated windows be used and/or photovoltaic and passive solar systems. The applicant had been provided with the whole gamut of recycled materials that could be included in the building.

Commissioner Wieckowski felt that it was wonderful that the university was providing housing for its students. However, he agreed with the previous comments and believed that the State standard for a green building should be met by the university. He hoped that it would not be a "project killer." The building characteristics were rather boring, although he understood that the students "were a rather serious group that want to go in and study and get out in three years."

Commissioner Natarajan agreed with Commissioner Wieckowski; however, when located in an industrial area, it needed to be self-sufficient and it needed to provide certain amenities to the students. With the cost implications, perhaps it could be done over time. The starting point should be a good design; a building that was fun and enriched learning. She did not see anything in this design that said it was student housing and there was nothing joyful about the building. It could be an industrial building or even a prison. Even serious students deserved a better design, which did not mean that it would be more expensive or that more elements needed to be added that would be an additional cost. She suggested going back to the original stucco building with elements that broke down the massing of this "one, long, big box."

Commissioner Harrison would accept the building for what it was. "Although it was not the most exciting building around," it looked like what it was intended to be and looked like what most of the Commissioners had probably lived in during some of their years in college. He feared that the certified green would be a deal killer. He encouraged the applicant to

continue working with staff to make the building as green as possible. He would support the project.

Commissioner Sharma agreed with Commissioner Harrison and suggested that trees and more landscaping would make it more attractive. He would support the project.

Chairperson Cohen hoped that people will not point to this building (that was to be a model) and ask how the City allowed it to be built. The City and the college deserved better than this architecture, and he would not support it in this present form. He would support a continuance for redesign or support a denial motion.

Senior Deputy City Attorney Seto added that there was no adopted Statewide standard for green buildings, although the U.S. Green Building Council used a point rating system.

Commissioner Thomas agreed with comments made that the building design could be better. However, it looked better than some of the dormitories that she had lived in. She was inclined to support it, because it was needed. She would support a continuance to allow for a better design.

IT WAS MOVED (THOMAS/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (6-1-0-0-0) THAT THE PLANNING COMMISSION **CONTINUE TO A DATE UNCERTAIN.**

The motion carried by the following vote:

AYES:	6 – Cohen, Harrison, Natarajan, Thomas, Weaver, Wieckowski
NOES:	1 – Sharma
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Item 8. CURTNER ESTATE – 45588 Wabana Common - (PLN2003-00312) - to consider an extension of Tentative Tract Map 7319 for a Planned District development located in the Warm Springs Planning Area. A Mitigated Negative Declaration was approved for the project on October 24, 2000.

Chairperson Cohen opened the public hearing and noted that speaker, Pamela Guerro, was not present.

Associate Civil Engineer Russell stated that she was concerned about the efforts that had been made rehabilitating the old house. He had asked her to contact him during business hours.

IT WAS MOVED (THOMAS/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THAT THE PLANNING COMMISSION

HOLD PUBLIC HEARING;

AND

APPROVE THE ONE-YEAR EXTENSION TO JULY 12, 2004 FOR TENTATIVE TRACT MAP 7319 AS SHOWN ON EXHIBIT “A” (TENTATIVE TRACT MAP 7319) BASED UPON ALL PREVIOUS FINDINGS AND SUBJECT TO ALL ORIGINAL CONDITIONS ON EXHIBIT “B”.

The motion carried by the following vote:

AYES:	7 – Cohen, Harrison, Natarajan, Sharma, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

Interim Director Schwob stated that the Brown Act was to be discussed tonight at the study session, but the Pacific Commons project was deemed more important. He asked if September 25th was acceptable to the Commissioners to discuss the Brown Act.

Vice Chairperson Weaver stated that she might not be able to attend the meeting.

- Information from Commission: Commission members may report on matters of interest.

Commissioner Sharma asked for a meeting with Interim Director Schwob to discuss the Mission slide.

Interim Director Schwob agreed that appropriate staff would contact him to provide an update.

Vice Chairperson Weaver asked for an update regarding the building colors at Mowry Avenue and Farwell Drive that had not been approved. She asked what happened if they did not comply.

Interim Director Schwob answered that they were moving closer to code enforcement, because they still did not have their final Certificate of Occupancy. If they did not comply, they would not receive their final Certificate of Occupancy, which could affect future needs, such as refinancing.

Commissioner Natarajan stated that she went to a planning commission meeting in London and they discussed color and design details on one project for eight hours.

Chairperson Cohen asked if everyone had received the brochure from Fresh Ideas for Community Nutrition and Physical Activity. The kind of nutrition that the community consumed was a serious community issue. He stated that the consumption of soda by children was higher than the consumption of milk and a bill was now in the legislature that would prohibit the sale of soda in schools below the high school level.

Meeting adjourned at 11:00 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte
Recording Clerk

Jeff Schwob, Secretary
Planning Commission